



# UNITED STATES PATENT AND TRADEMARK OFFICE

*ml*  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,322	03/16/2004	Billy H. Brenton	BRER.01US01	3739

7590 12/03/2004

Cochran Freund & Young LLC  
Suite 230  
3555 Stanford Road  
Fort Collins, CO 80525

EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
----------	--------------

3724

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,322	<b>Applicant(s)</b> BRENTON, BILLY H.	
	<b>Examiner</b> Hwei-Siu C. Payer	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-17 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

The amendment filed on 11-12-2004 has been entered.

### Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenton et al. (U.S. Patent No. 5,469,624) in view of Gauvry (U.S. Patent No. 4,742,617).

Brenton discloses a pair of scissors comprising a first shaft (10) having a handle portion (14/16) and a cutting portion (12a) separated by a first pivot location; a circular thumb ringlet (18); means (36) in the form of a flexible pin for rotatably connecting the thumb ringlet (18) to the first shaft (10); a second shaft (20) having a handle portion (22) and a cutting portion (12b) separated by a second pivot location; means (30) for pivotably connecting the second shaft (20) to the first shaft (10) in the region of the first pivot location and the second pivot location in such a manner that the cutting portion (12a) of the first shaft (10) and the cutting portion (12b) of the second shaft (20) cooperate as opposing cutting portions of the scissors, a finger ringlet (26) disposed on

the second shaft (20), and a finger stabilizer (see Fig.1a) disposed on the second shaft (20) in the vicinity of the finger ringlet (26) substantially as claimed except for the shape of the thumb ringlet (18). Specifically, Brenton's thumb ringlet is of a closed-loop type rather than an open loop.

However, scissors with an open loop thumb ringlet is well known in the art as evidenced by Gauvry (see Fig.1).

In view of this fact, it would have been obvious to one skilled in the art at the time this invention was made to modify Brenton by providing the scissors with an open loop thumb ringlet (18). The modification is obvious since it would only involve selecting one known type of thumb ringlet for another for a pair of scissors.

It is noted Brenton's flexible pin (36) is made of plastic material (see column 2, lines 6-8). To select a well known plastic material such as thermoplastic polymers for Brenton's flexible pin would have been obvious to one having ordinary skill in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brenton 5.(U.S. Patent No. 5,469,624) and Gauvry (U.S. Patent No. 4,742,617) as applied to claim 10 above, and further in view of Mock (U.S. Patent No. 6,131,291).

Brenton as modified shows all the claimed features except it lacks means for adjusting the force between opposing cutting portions of the scissors.

Mock shows a pair of shears comprising means (20,50) for adjusting the force of the shear blades (see column 3, line 66 to column 4, lines 1).

It would have been obvious to one skilled in the art to further modify Brenton by providing the scissors with force adjusting means to facilitate adjusting the ride of the blades as taught by Mock.

4. Claims 1-4 and 7-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Brenton et al. (U.S. Patent No. 5,469,624) and Gauvry (U.S. Patent No. 4,742,617) as applied to claims 10-13 and 15-17 above, and further in view of Pracht (U.S. Patent No. 5,109,608).

Brenton et al. as modified above shows all the claimed features except the adjustable thumb ringlet (18) and the flexible pin (36) are of a single integral piece.

However, scissors having separate a pin that connects a thumb ringlet to a scissor shaft is well known in the art such as the one shown in Pracht in which a thumb ringlet (15) having a hole (27) for receiving a pin (21) that is insertable into the hole (27) and through a tubular portion (26) in a scissor shaft (17) for rotatably connecting the thumb ringlet (15) to the scissor shaft (17).

In view of this fact, it would have been obvious to one skilled in the art at the time this invention was made to further modify Brenton by making the ringlet (18) and the pin (36) of two separate pieces, since the choice of making one piece article into two pieces depends more upon personal preference than on any inventive concept.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brenton (U.S. Patent No. 5,469,624), Gauvry (U.S. Patent No. 4,742,617) and Pracht (U.S. Patent No. 5,109,608) as applied to claim 1 above, and further in view of Mock (U.S. Patent No. 6,131,291).

Brenton as modified shows all the claimed features except it lacks means for adjusting the force between opposing cutting portions of the scissors.

Mock shows a pair of shears comprising means (20,50) for adjusting the force of the shear blades (see column 3, line 66 to column 4, lines 1).

It would have been obvious to one skilled in the art to further modify Brenton by providing the scissors with force adjusting means to facilitate adjusting the ride of the blades as taught by Mock.

#### **Indication of Allowable Subject Matter**

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Remarks**

Applicant's arguments with respect to claims 1-4 and 6-17 have been considered but are moot in view of the new ground(s) of rejection.

### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

H Payer  
November 30, 2004

*Hwei-Siu Payer*

**Hwei-Siu Payer**  
**Primary Examiner**